

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

Cassius Lamar Shine,	:
Plaintiff,	:
	:
v.	: File No. 2:06 CV 237
	:
Robert Hofmnn, Susan Blair,	:
Jodie Chaffee, Cindy Modiano,	:
Kevin Ashburn, Nick Burham,	:
Defendants.	:

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed June 17, 2009. Plaintiff's objections were filed June 29, 2009.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

IT IS HEREBY ORDERED that the defendants' motion for partial summary judgment (Paper 68) is GRANTED, and that all claims be DISMISSED with the exception of claims relating to

the alleged assault by Defendant Burham. Plaintiff's motion for a pre-trial conference (Paper 61), for appointment of counsel (Paper 62), and motion in limine (Paper 63), are DENIED without prejudice.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Dated at Burlington, in the District of Vermont, this 22nd day of July, 2009.

/s/ William K. Sessions III  
William K. Sessions III  
Chief Judge